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October 6, 2020

MEMORANDUM

To: Administrative Office of the Courts
From: Spencer Price; Director, Statistical Analysis Center
Analyst: Charles Huenke; Research Analyst, Statistical Analysis Center
Subject: Title 11, § 2104 Pretrial Failure Report

Title 11, § 2104 requires the Statistical Analysis Center to “provide the court with a report of rates of re-arrest and failure to appear as required by defendants released by the court.” This memorandum supplements the Center’s first report on the subject, which was provided in a memorandum dated May 27, 2020. Tables and charts in this installment present initial results from the second quarter of 2019 Delaware Pretrial Assessment Tool (DELPAT) cases, as well as an update of first quarter 2019 data reported in the previous memorandum. Readers are referred to the original memorandum for an overview of the analytical process.

Table 1 shows, by initial risk assessment month, counts of 2019 DELPAT cases identified and reviewed for pretrial failure analysis. Numbers of cases with pretrial at-risk time (second row) represent the denominators in pretrial failure rate calculations; cases without pretrial at-risk time (third row) are excluded from failure rate calculations. A small number of cases with no at-risk time were pending as of September 30, 2020 (counts in the fourth row are subsets of the third row). In follow-up tracking, there could be some shifting of cases from not at-risk to at-risk status if any defendants in pretrial custody are released after the cutoff date for this analysis.

Table 1

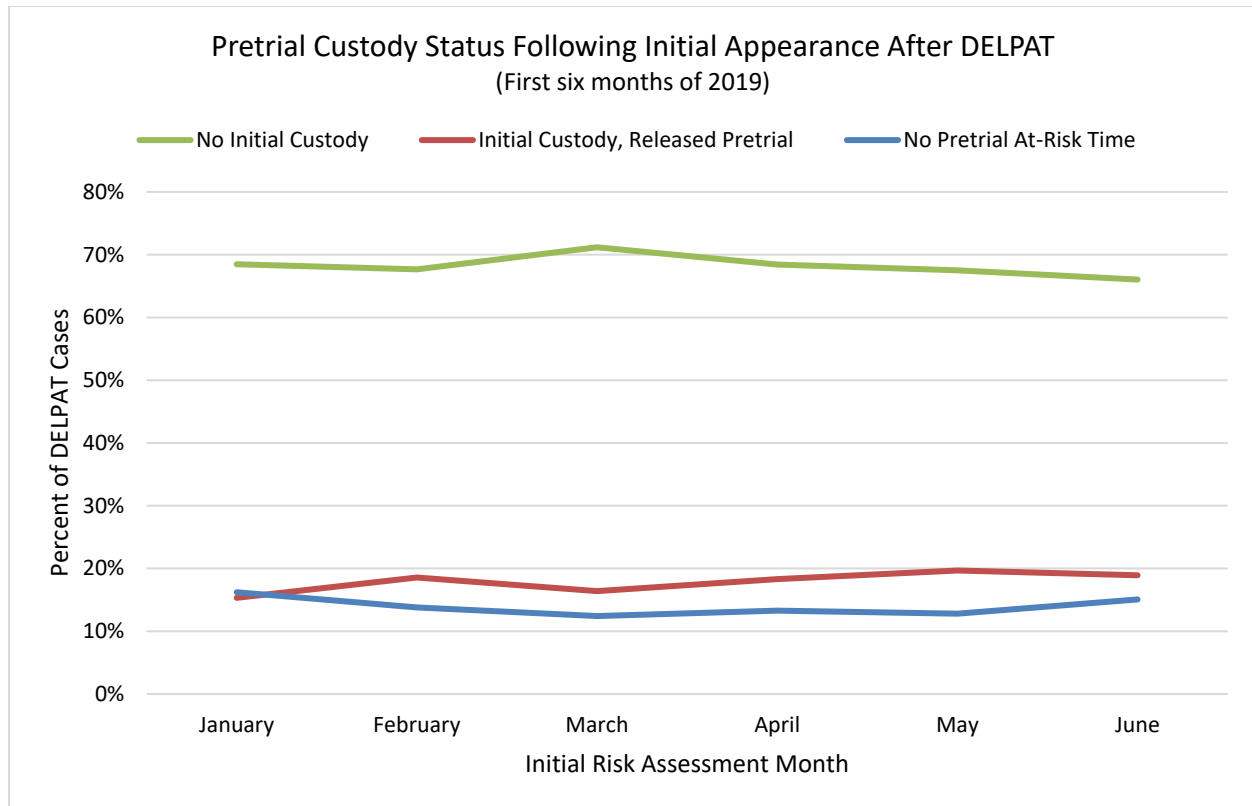
<i>Overall Case Breakout</i>	January	February	March	April	May	June
Qualifying Cases Identified	1,684	1,509	1,683	1,612	1,718	1,740
Cases With Pretrial At-Risk Time	1,411	1,301	1,474	1,398	1,498	1,478
Cases With No Pretrial At-Risk Time	273	208	209	214	220	262
<i>No At-Risk Time, Pending Disposition</i>	9	6	6	5	7	13

In the first six months of 2019, defendants in about 68% of DELPAT cases were released without initial commitment to detention. In about 18% of cases defendants were initially held in custody but were released prior to case disposition. Defendants were held throughout the pretrial period in about 14% of cases. In most situations involving pretrial custody, whether held only

initially or throughout the pretrial period, defendants were committed on cases other than, or in addition to, a specific DELPAT case.

Figure 1 shows case-based proportions of the three initial custody statuses following initial DELPAT assessments in the first half of 2019.

Figure 1



For the first six months of 2019, there were 8,560 DELPAT cases identified with pretrial at-risk time. As of September 30, 2020, the Failure to Appear (FTA) rate for those 8,560 cases was 28.9%, and the New Criminal Arrest (NCA) rate was 30.1%. The overall rate for any failure (FTA and/or NCA) was 44.6%. Table 2 shows failure rates by initial risk assessment month.

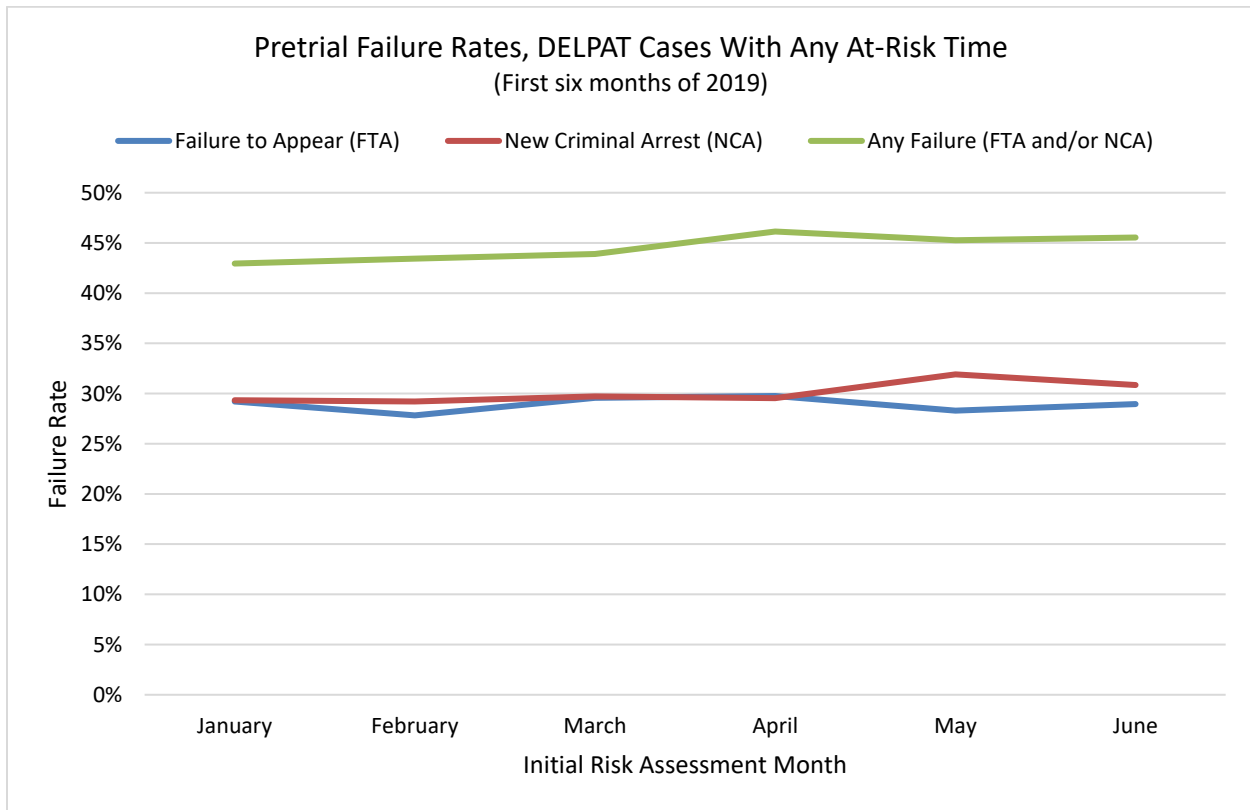
Table 2

<i>At-Risk Cases and Failure Rates</i>	January	February	March	April	May	June
Cases With Pretrial At-Risk Time	1,411	1,301	1,474	1,398	1,498	1,478
Failure To Appear (FTA) Rate	29.2%	27.8%	29.6%	29.8%	28.3%	29.0%
New Criminal Arrest (NCA) Rate	29.3%	29.2%	29.7%	29.5%	31.9%	30.9%
Any Failure (FTA and/or NCA) Rate	42.9%	43.4%	43.9%	46.1%	45.3%	45.5%

Among the 8,560 cases with at-risk time, some cases without both failure types were pending as of the cutoff date for this analysis. Small increases in failure rates could be observed in follow-up analyses if additional failures occur in cases that currently have FTA only, NCA only, or no failure at all.

Figure 2 provides a graphical representation of failure rates shown in Table 2.

Figure 2



The Center plans to continue its statutorily mandated reporting function, but it should be mentioned that process disruptions due to COVID-19 operational impacts are increasingly interfering with the ability to draw meaningful conclusions from pretrial failure rate trends.